IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1825 OF 2006

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Office Notes, Office Memorandum of Coram, appearance, Court's orders or directions and Registrar's orders

.....

Court's or Judge's orders

Mr. Santosh Jadhav,i/b M/s.
Sudesh Dasgupta, Singhania & Co.,
for the Appellants.

CORAM : A.S. OKA, J.
DATE : 11TH AUGUST 2006

P.C. :

1. Admit.

2. Printing is dispensed with.

The Appellant is directed to file private paper book alongwith sufficient number of copies thereof within a period of six months from today. If the paper book is not filed within stipulated period, the Appeal will stand dismissed for want of prosecution without further reference to the Court.

3. The appellant is directed to deposit the entire amount payable under the impugned Judgment and Award with the concerned Tribunal within a period of 10 weeks from today.

4. The challenge by the Appellant to the impugned award is on the ground that the Policy of Insurance does not cover the

liability of paying the compensation on account of the death of the deceased. The contention is that there is a breach of terms and conditions of the policy of insurance on the part of the insurer. The defence of the Appellant has not been accepted by the Insurance Company.

5. Even if Appellant succeed in the Appeal, the award against the insured will remain. Therefore, even if compensation is paid by the Appellant to the original claimant, in the event of success of the Appellant in the Appeal, the compensation amount can be recovered by the Appellant from the insurered. The award is of the year 2002, the claim should not suffer as a result of a dispute between the insurer and insured.

6. Hence, if the decretal amount is deposited by the Appellant, the Tribunal will permit the original

claimant to withdraw the amount subject to final outcome of the Appeal.

JUDGE